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FISCAL IMPACT STATEMENT

LS 7289 **NOTE PREPARED:** Feb 26, 2013
BILL NUMBER: SB 494 **BILL AMENDED:** Feb 21, 2013

SUBJECT: State and Local Taxation.

FIRST AUTHOR: Sen. Hershman **BILL STATUS:** As Passed Senate
FIRST SPONSOR: Rep. T. Brown

FUNDS AFFECTED: X **GENERAL** **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: (Amended) This bill does the following.

Penalty: This bill provides that the $50 penalty that may be imposed against a taxpayer in certain property tax appeal circumstances may not be added as an amount owed on the property tax statement.

Homestead Circuit Breaker Eligibility: The bill provides that for purposes of the property tax circuit breaker credits, a "homestead" eligible for the 1% cap means a homestead that has actually been granted a standard deduction.

Sales Tax: The bill removes the requirements that aircraft be registered out of the United States and be of a certain size for the sales and use tax exemption regarding tangible personal property used for the repair, maintenance, refurbishment, remodeling, or remanufacturing of an aircraft or an avionics system of an aircraft. It also restores provisions inadvertently repealed in 2012 concerning sales tax on gasoline. The bill also provides a sales tax exemption for fuel used in powering an aircraft.

County Inheritance Tax Replacement Payments: This bill specifies that counties are entitled to an inheritance tax replacement amount distribution regardless of whether the county received a distribution in state fiscal year 2012.

Certified Technology Parks: The bill provides that the designation of a new Certified Technology Park (CTP) is subject to review by the Budget Committee and approval of the State Budget Agency. It also provides that the Indiana Economic Development Corporation may designate not more than two new CTPs during any state fiscal year.

Airport Authorites: This bill permits a local airport authority to annually transfer up to 5% of the authority's property tax levy for operating and maintenance to the authority's cumulative building fund.

Local Reorganization: The bill specifies that the Department of Local Government Finance (DLGF) may make various adjustments to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets of political subdivisions that enter into a reorganization.

Cumulative Funds: Upon the request of Zionsville in Boone County, this bill requires the DLGF to establish a cumulative building and equipment fund for fire protection and related services and make related levy adjustments. Upon the request of the Frankfort Airport Authority, the bill requires the DLGF to establish a cumulative building fund.

Fire Protection Levies: The bill legalizes the actions of the DLGF with regard to levies by Barkley and Union Townships in Jasper County for township fire protection and emergency services.

Leased Property: This bill provides that real property leased to a state agency is exempt from property taxes if the lease requires the state agency to reimburse the owner for property taxes.

INDOT Signs: The bill provides a property tax exemption for signs manufactured for the Indiana Department of Transportation (INDOT) to comply with federal highway funding requirements under federal law.

Referendum Levies: This bill provides for a school corporation whose voters adopted a referendum after November 1, 2009, and before May 1, 2010, that the property tax revenue from the referendum is to be distributed to the school corporation instead of the redevelopment commission having taxable property within the school corporation (applies to revenue received after 2013).

Sales Assessment Ratio Studies: The bill specifies that the DLGF shall annually review each coefficient of dispersion study and each sales assessment ratio study that is submitted by a county. It creates a five-year pilot program to require the DLGF to review and analyze certain improved residential property data submitted for North Township in Lake County and for Center, Wayne, and Washington Townships in Marion County. The bill also requires the DLGF to separate the parcels in these townships into four comparable groups and separately review and analyze data for each of the four groups and to prepare a coefficient of dispersion study and a property sales assessment ratio study for each group.

Exempt Property: This bill forgives property taxes, penalties, or interest for the 2007 and 2008 assessment dates for a church that: (1) purchased real property in June 2007; (2) has used the real property for church purposes since purchasing the real property; and (3) filed a property tax exemption application for the real property in June 2007.

The bill also forgives property taxes, penalties, or interest for the 2011 and 2012 assessment dates for several parcels of a nonprofit corporation that: (1) owned, occupied, and used the property for exempt purpose; and (2) failed to timely file a property tax exemption application for one of those parcels.

Effective Date: (Amended) Upon passage; January 1, 2007 (retroactive); January 1, 2011 (retroactive); July 1, 2013; January 1, 2014.

Explanation of State Expenditures: *Sales Tax - Exemption Related to Aircraft*: This bill may increase administrative costs of the Department of State Revenue (DOR). DOR may have to amend Sales Tax forms and computer software to incorporate the bill's provisions regarding the aircraft-related exemption. The bill's requirements are within the DOR's routine administrative function and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Sales Tax - Gasoline: The bill restores provisions inadvertently repealed in 2012 regarding Sales Tax deductions and credits offered to retail merchants for prepayments of Sales Tax on gasoline. This provision does not have a fiscal impact on the state. DOR will continue to administer Sales Tax on gasoline in the same manner as before the provisions were repealed.

County Inheritance Tax Replacement Payments: This bill changes the calculation of Inheritance Tax replacement payments to counties which would result in an increase in expenditures from the state General Fund beginning in FY 2014 and ending in FY 2024. See *Explanation of Local Revenues* for more information.

Certified Technology Parks: This bill requires the Indiana Development Economic Corporation (IEDC) to submit a proposal to the Budget Committee whenever they want to designate a new CTP. The Budget Committee will make a recommendation to the State Budget Agency, and they will make the final determination. This process is similar for the creation of other zones that may receive incremental tax revenue. The bill also limits the establishment of CTPs to 2 per fiscal year. In the first two years of the program (2003 and 2004), 14 CTPs were established. Since then, the IEDC has designated between 1 to 2 CTPs a year. These requirements are within the agencies' routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

[The CTP program was created to help locate businesses involved in high-technology to Indiana and facilitate job creation by these businesses. CTPs are authorized to capture incremental revenue from Sales Tax, state Income Tax, and local option income tax. Each CTP has a lifetime limit of $5 M in revenue they can capture. As of September 2012, 23 CTPs have been designated.]

(Revised) *Leased Property*: Under this provision, state expenses for rent on leased property would be reduced. The total amount of state leases and the portion of rent that is property tax reimbursement are not currently known.

<u>*Additional information*</u>: The state Department of Administration (DOA) currently leases 2.3 million square feet of space at an annual rent of $31.5 M. The property tax component of this rent is not known. Additionally, the Bureau of Motor Vehicles has 137 leases with an estimated annual rent of $6 M. These leases do not include property leased by quasi-state agencies.

(Revised) *Sales Assessment Ratio Studies*: The DLGF currently reviews sales assessment ratio studies in each county and township. For North Township in Lake County and for Center, Washington, and Wayne Townships in Marion County, this bill would require the DLGF to further divide the parcels in each township into four groups and analyze the sales assessment ratio studies at that level. This provision would apply to studies submitted to the DLGF in 2013 through 2017. The DLGF should be able to complete the additional analysis with current resources.

Explanation of State Revenues: (Revised) *Sales Tax*: Sales Tax revenue could decrease by $1.17 M to $1.75 M in FY 2014 and by $1.22 M to $1.83 M in FY 2015. This bill expands the current Sales Tax exemption for items related to aircraft repair, maintenance, refurbishment, remodeling, or remanufacturing to include aircraft of any size that are registered in the United States. Under current statute, only items purchased for aircraft having a minimum landing weight of at least 5,000 pounds and registered outside the United States are exempt from the Sales Tax.

Sales Tax revenue is deposited as follows: 99.848% in the state General Fund, 0.123% in the Commuter Rail Service Fund (CRSF), and 0.029% in the Industrial Rail Service Fund (IRSF). The table below shows the estimated impact of this bill on each fund in FY 2014 and FY 2015.

Impact on Funds		**Lower Limit Estimate**		**Upper Limit Estimate**	
Fund	**Distribution**	**FY 2014**	**FY 2015**	**FY 2014**	**FY 2015**
General Fund	99.848%	($1,168,045)	($1,215,373)	($1,752,067)	($1,823,060)
CRSF	0.123%	(1,439.00)	(1,497.00)	(2,158.00)	(2,246.00)
IRSF	0.029%	(339.00)	(353.00)	(509.00)	(529.00)
Total	**100.000%**	**($1,169,823)**	**($1,217,224)**	**($1,754,734)**	**($1,825,835)**

Total Sales Tax revenue collected from Federal Aviation Administration-registered aircraft repair locations was about $2.3 M in CY 2011. It is estimated that 44% to 65% of those purchases were items related to the repair, maintenance, refurbishment, remodeling, or remanufacturing of aircraft registered inside the United States.

Current law exempts aircraft fuel purchases from sales tax if the fuel is used in public transportation. This bill would exempt the remainder of aircraft fuel purchases. The fiscal impact is indeterminable but probably significant. The DOR does not have the capability to track sales of aircraft fuel.

Explanation of Local Expenditures: *Penalty:* Under current law, a $50 penalty is assessed against a property taxpayer who appeals an assessment or deduction if a request for continuance, a request for the PTABOA to take action without the taxpayer being present, or a withdrawal is not timely filed and the taxpayer or representative fails to appear at the hearing. Under this bill, the penalty may not be added to the tax bill. The county's cost to collect the penalty could increase under this provision.

Airport Authorities: Under the bill, local airport authorities could transfer up to 5% of operating levies to the cumulative building fund. In CY 2012, 11 airport authorities levied $11.1 M in their operating funds. At 5%, the maximum total transfer to cumulative funds would be $555,000. Five airport authorities were shown not to have an operating levy. The airport authorities and the possible transfers under this bill are shown in the following table.

2012 Airport Authority Operating Fund Levies			
County	**Airport Authority**	**General Fund Levy**	**5% of GF Levy**
Allen	Fort Wayne-Allen County Airport Authority	3,593,161	179,658
Cass	Logansport/Cass Co Airport Authority	432,523	21,626
Clinton	Frankfort Airport	124,900	6,245
DeKalb	DeKalb County Airport Authority	0	0
Delaware	Delaware Airport	280,371	14,019
Dubois	Dubois County Airport	94,949	4,747
Fulton	Fulton County Airport Authority	0	0
Jackson	Seymour Airport Authority	0	0
Lake	Gary Airport	1,415,091	70,755
LaPorte	LaPorte Municipal Airport Authority	0	0
Perry	Perry County Airport Authority	0	0
Porter	Porter Co Airport Authority	494,507	24,725
St. Joseph	St. Joseph Airport	2,215,966	110,798
Starke	Starke County Airport Authority	245,417	12,271
Vanderburgh	Evansville-Vanderburgh Airport Authority	937,652	46,883
Vigo	Hulman Field Airport	1,267,762	63,388
		11,102,299	**555,115**

Explanation of Local Revenues: (Revised) *Homestead Circuit Breaker Eligibility - Summary*: The number of properties eligible for the 1% tax cap could be reduced under this bill. The higher property tax cap could potentially increase revenues for taxing units where the property is located. The number of properties affected is thought to be very small.

Homestead Circuit Breaker Eligibility - Background: Under current law, to qualify for the 1% property tax cap, a property must be *eligible* for the standard deduction. Under this bill, only properties that have *actually received* the standard deduction would be eligible for the 1% property tax cap. Nonhomestead residential properties have a 2% tax cap.

If an eligible taxpayer has not filed for the standard deduction, then the county auditor has no way to determine that a property is eligible for the 1% tax cap. In some cases, taxpayers have contacted the county auditor after receiving a tax bill. In those cases, the county auditor is able to apply the 1% cap retroactively and correct the tax bill. However, because these taxpayers have not received the standard and supplemental standard deductions, the tax due before the application of the cap is significantly higher than if the taxpayer had received those deductions. As a result, the revenue loss under the cap is larger.

Currently, a taxpayer who is eligible for the standard deduction may file for the deduction as late as January 5th of the year in which property taxes are due.

Sales Tax: Local revenue could decrease due to the aircraft-related exemption to the extent that a local unit receives distributions from the Commuter Rail Service Fund or the Industrial Rail Service Fund.

County Inheritance Tax Replacement Payments: This bill would increase the amount of replacement payments made to counties from the state General Fund beginning in FY 2014. Estimates are provided in the following table.

Fiscal Year Impact	Estimated Replacement Payments Under Current Law	Estimated Replacement Payments Provided by this Bill	Net Increase
FY 2014	$37,000	$63,000	$26,000
FY 2015	$33,000	$194,000	$161,000
FY 2016	$30,000	$326,000	$296,000
FY 2017	$26,000	$482,000	$456,000
FY 2018	$22,000	$654,000	$632,000
FY 2019	$18,000	$818,000	$800,000
FY 2020	$15,000	$949,000	$934,000
FY 2021	$11,000	$970,000	$959,000
FY 2022	$7,000	$832,000	$825,000
FY 2023	$4,000	$513,000	$509,000
FY 2024	$0	$0	$0

Background Information - This bill changes the calculation of Inheritance Tax replacement payments made to counties beginning in FY 2014 to the calculation method that was in statute prior to SEA 293-2012, multiplied by percentages that phase out the payments in FY 2024. The calculation will be based upon the difference between the Inheritance Taxes retained by a county in a state fiscal year and the average amount collected between 1990 and 1997, excluding the highest year and lowest year, multiplied by the appropriate percentage. The table below provides the schedule for the phase out of county replacement payments.

Fiscal Year Shortage	Fiscal Year Distributed	County Replacement Payment Phase Out
FY 2014	FY 2015	82%
FY 2015	FY 2016	73%
FY 2016	FY 2017	64%
FY 2017	FY 2018	55%
FY 2018	FY 2019	45%
FY 2019	FY 2020	36%
FY 2020	FY 2021	27%
FY 2021	FY 2022	18%
FY 2022	FY 2023	9%
FY 2023	FY 2024	0%

SEA 293-12 provided for a phase out of the Inheritance Tax beginning with decedents whose deaths occur during CY 2013. The Inheritance Tax will no longer apply to property interests transferred by decedents whose deaths occur after December 31, 2021. The Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early discount).

Cumulative Funds: The establishment of new cumulative funds for two taxing units and the adjustment of a maximum levy for one unit under this bill would increase tax rates within those units and could affect circuit breaker losses for intersecting taxing units.

Cumulative Funds - Zionsville: Under this provision, the DLGF would be required to establish a cumulative fire building fund for the town of Zionsville upon the town's request. For taxes payable in 2012, Zionsville's certified net assessed value was $1.861 B. The maximum tax rate for the fund would be $0.0033 per $100 of AV. The estimated levy at the maximum rate would be about $620,000. The fund could be established for taxes payable as early as CY 2014.

In addition, this bill would increase Zionsville's maximum levy for 2014 by the amount of the actual 2012 property tax levy for the fire territory's equipment replacement fund. The amount of the increase would be $446,815.

Cumulative Funds - Frankfort Airport: Under this provision, the DLGF would be required to establish a cumulative fire fund for the Frankfort Airport Authority upon the authority's request. For taxes payable in 2012, the airport authority's certified net assessed value was $295.5 M. The maximum tax rate for the fund would be $0.0033 per $100 of AV. The estimated levy at the maximum rate would be about $9,700. The fund could be established for taxes payable as early as CY 2014.

Fire Protection Levies: Under HEA 1072 (2012), Barkley Township and Union Township, both in Jasper County, could receive an increase in their firefighting maximum levies beginning in 2013 if they petitioned the DLGF. Barkley Township's increase was limited to $12,247, and Union Township's increase was limited to $14,557. Under this bill, the actions of DLGF with regard to these petitions would be legalized.

(Revised) *Referendum Levies*: Under current law, most building projects initiated by school corporations and local civil taxing units are subject to a public referendum. In addition, school corporations may seek additional property taxes for operating purposes through a referendum. All property tax levies imposed after being approved in a referendum are exempt from the circuit breaker caps.

Also under current law, the taxes paid on assessed valuation (AV) that exceeds the base AV in a TIF area is allocated to the redevelopment commission and is not distributed to local civil taxing units and school corporations. If the taxes to be paid on the allocated AV will exceed the amount needed by the commission for necessary expenses, then the commission must currently reallocate the excess AV back to the taxing units and schools.

Currently, in the case of a referendum passed after April 30, 2010, in a TIF area, the taxes generated by a referendum tax rate in a TIF area are to be paid directly to the civil taxing unit or school corporation that passed the referendum and not to the redevelopment commission.

However, in the case of a referendum passed before May 1, 2010, in a TIF area, the referendum tax rate is treated like all other tax rates. So, the referendum taxes paid on the TIF AV are allocated to the redevelopment commission. If the commission finds that the allocated taxes with the referendum levy exceed necessary expenses, then the commission must reallocate AV back to the taxing units and schools. This reallocation has the effect of lowering the tax rate for all taxing units including the school corporation and increasing the levy generated in rate-controlled cumulative funds for those units.

This bill would affect taxes payable due to a referendum passed after November 1, 2009, and before May, 2010. It would be effective beginning with taxes payable in 2014. Under this bill, the taxes generated by a referendum tax rate in a TIF area would be paid directly to the civil taxing unit or school corporation that passed the referendum and not to the redevelopment commission. TIF proceeds would be maintained at their pre-referendum amounts. Reallocations of AV caused by excess taxes due to referenda would be eliminated (although reallocations may still occur for other reasons).

According to the DLGF, three school corporations, Beech Grove, Hamilton Southeastern, and Southern Wells, passed referenda between November 1, 2009, and May 2010. Two of these three school corporations, Beech Grove and Hamilton Southeastern, currently have a TIF area in their territory.

Beginning with taxes payable in 2014, these school corporations would receive the full benefit from the referendum tax levy even if a TIF district is present. The effect on the referendum unit would be either higher referendum income or the opportunity to reduce the referendum tax rate.

(Revised) *Leased Property and INDOT Signs*: Under these provisions, an unknown amount of property would become exempt from property taxation. Property leased by the state and highway signs not owned by the state would be exempt from property tax under this bill. The exemptions would result in higher tax rates in the areas where the exempt property is located. The higher tax rates would shift property taxes to other taxpayers and would also increase revenue losses from the circuit breaker caps.

(Revised) *Exempt Property - Church:* Under this provision, owners of certain real property would receive an exemption from property tax for taxes payable in 2008 and 2009 if:

(1) The owner purchased the real property in June 2007, and has used the property for church purposes since that time;
(2) The owner filed a property tax exemption application for the property in June 2007; and
(3) The owner files an exemption application before September 1, 2013.

Under this provision, the exemption would apply retroactively and the 2008 and 2009 tax bills along with all penalties and interest would be cancelled.

One taxpayer, in St. Joseph County, has been identified as qualifying for an exemption under this provision. The taxes billed for 2008 and 2009 amount to approximately $49,000. For 2008 and 2009, the local taxing units and school corporation located in the affected taxing district would forego receipt of their share of the amount due.

(Revised) *Exempt Property - Marion County:* Under this provision, owners of real and personal property located in Marion County would receive an exemption from property tax for taxes payable in 2012 and 2013 if:

(1) The owner owns multiple parcels of real property in Marion County that are used for educational, literary, scientific, religious, or charitable purposes;
(2) The owner would have qualified for the exemption if it had been timely filed; and

(3) The owner files an exemption application before September 1, 2013.

Under this provision, the exemption would apply retroactively and the 2012 tax bill would be cancelled. One taxpayer has been identified as qualifying for an exemption under this provision. The taxes billed for 2012 amount to approximately $59,535. For 2012, the local taxing units and school corporation located in the affected taxing district would forego receipt of their share of the amount due. For 2013, the tax burden would be shifted to all other taxpayers in the affected taxing district.

State Agencies Affected: Department of State Revenue; Indiana Economic Development Corporation; Department of Local Government Finance.

Local Agencies Affected: Counties; Town of Zionsville; Frankfort Airport Authority; Barkley and Union Townships in Jasper County.

Information Sources: OFMA Inheritance Tax Database; LSA Property Tax Database; Revenue Technical Committee, *State Revenue Forecast, Fiscal Year 2015,* December 17, 2012; Quarterly Inheritance Tax Reports, FY 1997- FY 2012. LSA, *Indiana's Geographically Targeted Development Programs: Certified Technology Parks,* September 8, 2012; Local Government Database, DLGF; Shane Corbin, Department of State Revenue, 317-232-2107; Steve Harless, Department of Administration, 317-234-4724.

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